

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

#### DIVISION FOUR

LAWRENCE FOREMAN, ET AL.,	)	No. ED101525
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of the City of St. Louis
vs.	)	
	)	Honorable John F. Garvey
AO SMITH CORP., ET AL.,	)	
	)	
Appellant.	)	FILED: September 22, 2015

Sid Harvey Industries, Inc. ("Appellant") appeals from the trial court's judgment following a jury trial finding Appellant liable for negligent failure to warn Lawrence Foreman ("Respondent") of asbestos-related dangers contained in products Appellant delivered, which were a substantial factor in Respondent developing mesothelioma.

AFFIRMED

Division Four Holds: The trial court did not err in denying Appellant's motion for directed verdict because circumstantial evidence was sufficient to establish Respondent's exposure to asbestos-containing products delivered by Appellant. The trial court did not err in overruling Appellant's objection to Respondent's expert's testimony as the alleged facts not in evidence were contained in Respondent's testimony and his expert's report, which was introduced by Appellant's counsel at trial. The trial court did not err in denying Appellant a setoff for the fifteen other settling defendants as those agreements did not satisfy the requirements of the UCATA for Jones releases. Finally, the trial court did not abuse its discretion in failing to grant Appellant a new trial based on the jury's alleged improper verdict because Appellant waived its claim by not objecting to the verdict before the jury was discharged.

Opinion by: Roy L. Richter, J.

Patricia L. Cohen, P.J., Robert M. Clayton III, J., concur.

Attorney for Appellant: James R. Dowd, Lindsay A. Dibler, Candice C. Kusmer,  
John J. Kurowski

Attorney for Respondent: Michael Gross, Joseph F. Yeckel

<p><b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b></p>
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